

## **Remarks**

Applicant thanks the Examiner for the indication of allowability for claims 8 to 12, 14 to 18, 29 to 33, and 35 to 39. However, these claims have not yet been rewritten to include all of the limitations of the base claim and any intervening claims at this time, as it is submitted that the base claim and the intervening claims are allowable as argued below.

Claims 1-6, 19-23, 28, 48, 50, 53 and 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gottlieb et al (U.S. Patent No. 6,694,070) in view of Chen (U.S. Patent No. 6,660,990).

However, it is submitted Chen (U.S. Patent No. 6,660,990) is listed in error as U.S. Patent No. 6,660,990 names Boertjes as inventor. Accordingly it is submitted that the Boertjes reference was intended as it is referred to on page 4, 5, and 6 of this rejection and is an explicitly recited in the rejection to the remainder of the claims: claims 7, 13, 24-27, 34, 40-47, 49, 51-52, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gottlieb et al and Boertjes et al as applied to claims 1-3, 19-21, and 48 above, and further in view of Alvarez et al (U.S. Patent No. 6,731,832).

Thus all of the rejections rely on the Boertjes reference, which is a 35 U.S.C. 102(e) reference. We traverse the 103 rejection to the claims as the Boertjes reference U.S. Patent No. 6,660,990, is not applicable as prior art pursuant to 35 U.S.C. 103(c).

### **Statement Under 35 U.S.C. 103(c) pertaining to common ownership**

We respectfully submit that the Boertjes reference, namely U.S. Patent No. 6,660,990 is not applicable as prior art under 35 U.S.C. 103(a) as the Boertjes reference is a 102(e) reference and both the subject application and the Boertjes reference were, at the time the invention was made, owned by or subject to an obligation of assignment to, the same person, namely Nortel Networks Limited. We note that the subject application is based on a provisional application dated March 11, 2003 which predates the issue date of the Boertjes reference. Thus, it is respectfully submitted that the rejection is improper and should be withdrawn.

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Amendments dated December 22, 2006  
Office Action dated October 5, 2006

Accordingly it is submitted that the claims are now Allowable and a Notice of Allowance is hereby requested.

No fee is believed due for this submission. However, Applicant authorizes the Commissioner to debit any required fee from Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP. The Commissioner is further authorized to debit any additional amount required, and to credit any overpayment to the above-noted deposit account.

Respectfully submitted,

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JMM/dbm